

**LOCAL ELECTIONS (DISCLOSURE OF DONATIONS
AND EXPENDITURE) ACT 1999, as amended**

Guidelines for

Third Parties Concerning Donations for Political Purposes

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1. Introduction

The Local Elections (Disclosure of Donations and Expenditure) Act 1999, as amended provides a statutory framework for dealing with political donations at local level. This document contains guidelines to assist third parties in meeting their obligations under the Act and contains information on registration requirements, donation limits, prohibited donations and the opening of political donations accounts. A copy of the certificate to accompany a statement from a financial institution for a political donations accounts is included at Appendix 1.

THIS DOCUMENT IS FOR GUIDANCE ONLY. REFERENCE SHOULD ALSO BE MADE TO THE LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND EXPENDITURE) ACT 1999 AS AMENDED BY THE ELECTORAL (AMENDMENT) ACT 2001.

2. Background

2.1 The provisions of the Local Elections (Disclosure of Donations and Expenditure) Act 1999, as amended in relation to third parties are designed to bring such person or persons within the political donation regime in operation at local government level. Section 19A of the Act defines a third party as follows:

" 'third party', in relation to a local election, plebiscite or campaign, means any person, other than a political party registered in the Register of Political Parties under Part III of the Act of 1992 or a candidate at an election, who accepts, in any particular year, a donation the value of which exceeds £100 (€126.97)".

Other relevant definitions are set out in Appendix 2.

3. Registration of Third Parties

- 3.1 Section 19G of the Local Elections (Disclosure of Donations and Expenditure) Act 1999, as amended requires a third party to register with a local authority where it has received a donation which exceeds €126.97 and which it intends to use for political purposes*.
- 3.2 The following registration details must be furnished to the local authority before a third party incurs expenses for political purposes:
- (a) the name and address of the third party and the name and address of the responsible person*, or each responsible person in relation to the third party,
 - (b) a statement of the nature, purpose and estimated amount of the donations to, and proposed expenses of, the third party in any year, and
 - (c) an indication of the third party's connection, if any, with any political party or candidate at the election or with the plebiscite or campaign.

* see Appendix 2 for definitions.

4. **Donations to Third Parties**

4.1 A donation means any contribution given for political purposes by any person, whether or not a member of a political party, to a third party in connection with an election, plebiscite or campaign which is accepted in whole or in part by or duly on behalf of such person and includes -

- any donation of money,
- any donation of property or goods,
- any conferring the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods,
- any supply of services without payment or other consideration therefor,
- any difference between the commercial price and the price charged for the purchase, acquisition or use of property or goods or the supply of any service where the price, fee or other consideration is less than the commercial price, and
- in the case of a contribution made by a person in connection with an event organised for the purpose of raising funds for a candidate at an election, any proportion attributable to that contribution of the net profit, if any, deriving from the event.

Where a person makes more than one donation to the same third party in the same calendar year, the values of the donations must be aggregated and the donations treated as a single donation.

4.2 A donation to a third party **does not include** any payment relating to-

- necessary travelling and other expenses incurred by a candidate or an assessor in fulfilling the nomination requirements at a local election;
- expenditure on the purchase of copies of the register of electors;

- reasonable living expenses (including accommodation) of a candidate or any person or persons working on behalf of the candidate on a voluntary basis;
- any sum disbursed by any individual out of the individual's own resources for any minor (not exceeding €126.97 in any one payment) expenses lawfully incurred in relation to the election if the said sum is not repaid to the person.
- benefits derived from a service rendered by an individual, including the use of the individual's motor vehicle, on behalf of a political party or candidate at an election, where that service is gratuitous and is not part of that individual's work carried out under a contract of employment, or where the individual is self-employed, is not in the course of the individual's business or in the practice of the individual's profession or
- benefits derived from a service rendered at an election by an individual in the employment of a political party, (whether remunerated out of the party's own resources or out of public funds) including use of the individual's motor vehicle, on behalf of a candidate of that party at an election, where the individual is not in receipt of any reward or benefit in kind other than his or her normal remuneration (including recoupment of expenses) in consideration of that service;
- the publication in a newspaper, magazine or other periodical publication or the broadcast on radio or television of news, reports, articles, features, editorial or other comments, including the publication of letters to the editor, where such publication or broadcast is effected in the same manner as that of other material relating to issues of public interest or concern, and the newspaper, magazine or other periodical publication is not published for the purpose of promoting the interests of a political party or of a candidate at an election;
- the transmission on radio or television of a broadcast on behalf of a political party or candidate at an election (this exclusion does not cover any production, or other, costs associated with a transmission on radio or television);
- any election expenses incurred by or on behalf of a political party by a national agent or designated person, as the case may be, on behalf of a candidate authenticated by the political party at an election, other than a donation of money;
- expenses incurred in the provision of property, goods or services used at an election where such property, goods or services was or were provided in respect of a previous Presidential, Dáil, European or local election and the cost of providing such property, goods or services was included in the statement of election expenses furnished to the Public Offices Commission or to a local authority in relation to the said previous election by the national agent of the political party, election agent, designated person or by the candidate, as the case may be.

5. Prohibited donations

5.1 Donations over the statutory limit

A third party may not, either directly or through an intermediary, accept a donation with a value exceeding €6,348.69 from the same donor in the same calendar year. If a person makes more than one donation to the same third party in the same year, the values of the donations must be aggregated and the donations treated as a single donation.

If a third party receives a donation with a value in excess of the limit:

- the donation must, within fourteen days of receipt, be returned by the third party to the donor or, if it is a monetary donation, the part of it exceeding the limit must be returned to the donor and a written record of the return must be kept for the purpose of it being furnished to the local authority, if required by the authority, or
- the third party must, within fourteen days of receipt, notify the local authority of such receipt and remit the donation or, in the case of a monetary donation, the part of it exceeding the limit or the value thereof, to the authority.

The limit referred to above does not apply to the provision by any person of a constituency office to an individual, or if more than one such office is provided to the individual, whichever one of those offices is nominated in writing by the individual.

5.2 Foreign donations

A third party must not accept a donation, of any value, from an individual (other than an Irish citizen) who resides outside the island of Ireland.

Neither must a donation, of any value, be accepted from a body corporate or an unincorporated body of persons which does not keep an office in the island of Ireland from which at least one or more of its principal activities is directed.

Notwithstanding the above, where such a donation is received:

- the third party should, within 14 days, return the donation to the donor and keep a written record of the return for the purpose of its being furnished to the local authority, if required by it, or

- the third party should, within 14 days, notify the local authority and remit the donation, or the value thereof, to the authority.

5.3 Anonymous donations

A third party must not accept an anonymous donation exceeding €126.97 value. A donation is anonymous if the name and address of the donor is not known to the third party concerned. If such a donation is received, the third party must notify the local authority in writing within 14 days of receipt of the donation and remit the donation, or its value, to the authority. The authority must lay a copy of each such notification received before the members of the local authority and must dispose of the donation as directed by the authority.

6. Political donations accounts

- 6.1 A third party who receives, in any particular year, a monetary donation of more than €126.97 must open and maintain an account in a financial institution* in the State and must lodge that donation and any further monetary donations received, of whatever value, to that account (referred to as a political donations account).
- 6.2 Not later than 31 March each year, a third party who was required to open a political donations account must furnish a statement provided by the financial institution where the political donations account was opened. The statement must specify the transactions that have taken place in relation to the account during the preceding year together with a certificate (copy at Appendix 1) stating that all monetary donations received during the preceding year were lodged to the account and that all amounts debited from the account were used for political purposes.

The certificate must be accompanied by a statutory declaration (see Appendix 1) that, to the best of the third party's knowledge and belief, the certificate is correct in every material respect and that all reasonable action has been taken in order to be satisfied as to the accuracy of the certificate.

The local authority will retain the statements from financial institutions and their accompanying certificates and statutory declarations and will not disclose the contents thereof, unless ordered by a court to do so or where disclosure is required in connection with an investigation held by the local authority.

* see Appendix 2 for definitions.

6. Offences and penalties

A third party will be guilty of an offence if he or she:

- Fails to furnish the necessary registration details to the local authority
- In the case of an anonymous donation in excess of €126.97(see page 9 of guidelines),fails to notify in writing the local authority concerned and remit the donation or the value thereof to the local authority ,within 14 days of receipt of the donation.
- In the case of a donation in excess of €348.69, fails within 14 days of receipt of the donation either to return the part of the donation which exceeds €348.69 to the donor and keep a written record of the return or notify the local authority concerned of such receipt and remit the part of the donation which exceeds €348.69 to the local authority concerned.
- In the case of a foreign donation (see page 8 of the guidelines), fails within 14 days of receipt of the donation either to return the donation to the donor and keep a written record of that return or notify the local authority concerned of such receipt and remit the donation to that local authority.
- where required, fails to furnish to the local authority, on or before 31 March each year, a statement from a financial institution or a certificate and statutory declaration, or
- knowingly furnishes, a statement from a financial institution or a certificate and statutory declaration, which is false or misleading in any material respect.

Proceedings for any of the above offences may only be instituted by, or with the consent of, the Director of Public Prosecutions.

A person found guilty of an offence will be liable to a fine not exceeding €1,904.61. Where the conviction is for failing to furnish the required statutory documentation to the local authority, a person will be liable to a further fine of up to €26.97 per day for every day after the conviction on which the failure continues.

A person who knowingly furnishes a statement from a financial institution or a certificate or who makes a statutory declaration, which is false or misleading in any material respect will be liable, on conviction on indictment, to a fine not exceeding €25000 and/or up to 3 years in prison.

**LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND EXPENDITURE) ACT
1999, AS AMENDED**

**CERTIFICATE TO ACCOMPANY STATEMENT FROM FINANCIAL
INSTITUTION**

THIS CERTIFICATE IS NOT FOR PUBLIC DISPLAY

Name	
Address	
Local Authority	

I hereby declare that a donation for political purposes exceeding €26.97 and subsequent donations received by me during the year 2009 were lodged to the following political donations account, a statement of the account for which is attached, and that all amounts debited (excluding charges by the institution) were used for political purposes.

Account Number	
Financial Institution address	
Date account opened	

Signed: _____

Date: _____

Statutory Declaration

Part 1

I (name) _____, do solemnly and sincerely declare that the above statement is, to the best of my knowledge and belief, correct in every material respect and that I took all reasonable action in order to be satisfied as to its accuracy. I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938 as amended.

Signed: _____

Date: _____

Part II

(Witness)

Declared before me by (name of person at Part 1 above) _____ who is personally known to me (or who is identified to me by _____, who is personally known to me) at _____

Signature: _____

Category: * _____

Date: _____

*** A witness must be one of the following: Commissioner for Oaths / Notary Public / Peace Commissioner / Practising Solicitor. (No persons other than those listed are authorised to witness the Statutory Declaration. For example, a member of the Gardaí is not an authorised person. A Garda Station would have a list of Peace Commissioners in its local area. Commissioners for Oaths are listed in the Yellow Pages.)**

APPENDIX 2**Definitions**

For ease of reference, some of the more important definitions follow: The definition of what constitutes a 'donation' is set out in pages 6 to 9

“account” means an account in an institution in the State for the purpose of crediting and debiting money received in respect of donations;

“institution” means:

- the holder of a licence under section 9 of the Central Bank Act 1971;
- a building society;
- a trustee savings bank;
- ACC Bank plc;
- An Post; or
- a person authorised in accordance with the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992) to carry on business in the State.

NOTE: A credit union is not an institution for the purposes of the legislation.

“local political matter” means a matter relating to the policy or policies or functions of a local authority or other statutory body in which are vested functions in relation to local government;

“person” is defined as meaning:

- an individual;
- a body corporate (a body corporate and any of its subsidiaries shall be deemed to be one person);
- an unincorporated body of persons;

“plebiscite” means a poll to ascertain the views or consent of qualified electors within the

meaning of section 67(2) of the Local Government Act, 1994 in relation to a local political matter;

“political party” means a party registered in the Register of Political Parties in accordance with section 25 of the Electoral Act of 1992, as a party organised to contest a local election;

“political purposes” means:

- to promote or oppose, directly or indirectly, the interests of a political party, or a member of a local authority, or
- to present, directly or indirectly, the policies or a particular policy of a political party, a member of a local authority or a third party, or
- to present, directly or indirectly, the comments of a political party, a member of a local authority, or a third party with regard to the policy or policies of another political party, member of a local authority, a third party or candidate at the election or at a plebiscite or campaign or otherwise, or
- to promote or oppose, directly or indirectly, the interests of a third party in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to a plebiscite or local political matter,
- to promote or oppose, directly or indirectly, the election of a candidate at the election or to solicit votes for or against a candidate or to present the policies or a particular policy of a candidate or the views of a candidate with regard to any matter connected with the election or the comments of a candidate with regard to the policy or policies of a political party or third party or of another candidate at the election or otherwise,
- otherwise to influence the outcome of the election or a plebiscite or campaign.

“responsible person” in relation to a third party, means a person who is responsible for the organisation, management or financial affairs of the third party;

AGUISÍN 2

**AN T-ACHT UM THOGHCHÁIN ÁITIÚLA (SÍNTIÚIS AGUS
CAITEACHAS A NOCHTADH) 1999, arna leasú
DEIMHNIÚ LE BHEITH I DTEANNTA AN RÁITIS
Ó FHORAS AIRGEADAIS INA BHFUIL CUNTAS SÍNTIÚS
POLAITÍOCHTA**

NÍL AN DEIMHNIÚ SEO LE TAISPEÁINT GO POIBLÍ

Ainm	
Seoladh	
Údarás áitiúil	

Dearbhaím leis seo go ndearnadh síntiús chun críocha polaitíochta ba mhó ná €126.97 agus aon síntiús ina dhiaidh sin a fuair mé i rith na bliana 2009 a thaisceadh sa chuntas síntiús polaitíochta seo a leanas, a bhfuil ráiteas cuntais de i gceangal leis seo, agus gur baineadh úsáid as gach méid a cuireadh chun dochair an chuntais sin (gan muirir an fhorais san áireamh) chun críocha polaitíochta.

Uimhir chuntais	
Seoladh an Fhorais Airgeadais	
Dáta ar osclaíodh an cuntas	

Arna Shíniú: _____ Dáta: _____

Dearbhú Reachtúil

Cuid 1

Dearbhaímse (ainm) _____, go sollúnta agus go fíreata go bhfuil an ráiteas thuas ceart i ngach ponc ábhartha, de réir mar is fear is eol dom agus mar a chreidim, agus go bhfuil gach gníomh réasúnach déanta agam chun a bheith deimhin de go bhfuil an ráiteas cruinn. Déanaim an dearbhú sollúnta seo agus mé á chreidiúint go coinsiasach an céanna a bheith fíor agus de bhua an Achta i dtaobh Dearbhuithe Reachtúla 1938, arna leasú.

Arna Shíniú: _____ Dáta: _____

Cuid II (Finné)

Arna dhearbhu os mo chomhairse ag (ainm an duine ag Cuid 1 thuas)

_____ a bhfuil aithne phearsanta agam air nó uirthi (nó a chuir _____, a bhfuil aithne phearsanta agam air nó uirthi, in aithne dom) i _____

Síniú: _____

Earnáil: *

Dáta: _____

- * **Caithfidh finn é a bheith ar dhuine díobh seo a leanas: Coimisinéir Mionnaí / Nótaire Poiblí / Feidhmeannach Síochána / Aturnae Cleachtach.**

(Níl aon duine seachas na daoine sin atá liostaithe údaraithe an Ráiteas Reachtúil a fhianú. Mar shampla, ní duine údaraithe é nó í comhalta den Gharda Síochána. Bheadh liosta d'Fheidhmeannaigh Síochána don cheantar áitiúil ag Stáisiún Gardaí. Tá na Coimisinéirí Mionnaí liostaithe sna Leathanaigh Buí.)

